

U.S. DEPARTMENT OF THE INTERIOR

OFFICE OF INSPECTOR GENERAL

AUDIT REPORT

SELECTED ASPECTS OF
INDIAN TRUST FUND ACTIVITIES
BUREAU OF INDIAN AFFAIRS



This report may not be disclosed to anyone other than the auditee
except by the Assistant Inspector General for Administration,
Office of Inspector General, U.S. Department of the Interior,
Washington, D.C. 20240.

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REPORT NO. 89-117
SEPTEMBER 1989

DATE



United States Department of the Interior

OFFICE OF INSPECTOR GENERAL
WASHINGTON, D.C. 20240



September 29, 1989

Memorandum

To: Assistant Secretary for Indian Affairs

From: Assistant Inspector General for Audits

Subject: Final Audit Report on Selected Aspects of Indian Trust Fund Activities, Bureau of Indian Affairs (No. 89-117)

This report presents the results of our review of selected aspects of Bureau of Indian Affairs trust fund activities. Since a certified public accounting firm was conducting a full-scope financial audit of tribal and individual Indian monies trust funds, the objective of this audit was limited to determining whether the integrity of Indian trust fund investments of \$1.7 billion as of June 30, 1988, was properly maintained. Our audit verification of the investments also included an analysis of investment losses, an accounting of guaranteed loans and overnight Treasury interest, and an analysis of the results of the accounting firm's audit.

We concluded that shortages of approximately \$17 million of Indian trust fund investments could not be accounted for in the official investment accounting records (\$19 million per the accounting firm's review); documented investment losses of about \$12 million (including interest) had not been recognized in the official accounting records, with the Indian trust fund accounts not being reimbursed for these losses; the Bureau did not have accounting control over guaranteed loans of about \$23 million; overnight Treasury interest of about \$2.4 million had not been earned because of deficient reporting procedures; and internal control and financial management of the trust funds lacked credibility. As a result, the Department of the Interior is potentially liable for all losses resulting from the Bureau's mismanagement of the \$1.7 billion trust fund.

Our confirmation of actual investments supporting the \$1.7 billion shown in the general ledger as of June 30, 1988, disclosed a shortage of \$17 million that could not be accounted for. This shortage was identified after we verified all investments listed in subsidiary records with actual certificates of deposit, with bank records, or with confirmation letters to the applicable Government agency. In addition, the accounting firm's audit as of September 30, 1988, disclosed an investment shortage in the general ledger of about \$19 million. We concluded that the lack of central management, internal control problems, and weaknesses in the accounting process were the primary causes of this problem. Both this report and the accounting firm's reports contain recommendations addressing the conditions that led to significant fund shortages.

The Bureau had no policies or procedures that addressed the proper process for handling identified losses of trust funds. At June 30, 1988, identified losses totaling about \$12 million had not been recognized in the official accounting records or appropriately reimbursed. Our recommendations include establishing formal written procedures definitizing when the Bureau is liable for losses and how accounts will recoup lost funds for which the Bureau is liable.

Bureau accounting control over guaranteed loans totaling about \$23 million was nonexistent. In January 1983, about half the loans were transferred to a fiscal and transfer agent designated by the Small Business Administration. The actual number and dollar value of loans transferred are unknown. Guaranteed loans of approximately \$5 million cannot currently be accounted for. We recommended that all guaranteed loans in effect as of January 1983 (when records were maintained) be thoroughly researched and appropriate records be established and maintained on a current basis.

The Bureau did not earn or distribute \$2.4 million of overnight interest because of deficient reporting to the U.S. Treasury prior to 1987. The Bureau has known about this for several years, as documented by correspondence with the Treasury Department in September 1987. However, in the 2 years since this correspondence, this issue has not been resolved and the overnight interest funds have not been distributed.

On September 15, 1989, the Bureau responded to our draft report indicating general concurrence with the intent of our recommendations and stating that actions have been started to improve the accounting and investment processes. The Bureau agreed to implement 6 of our 11 draft report recommendations (Nos. A.1, A.3, A.4, A.5, B.1, and C.1). For 3 of these recommendations (Nos. A.5, B.1, and C.1), the target dates for tracking of implementation are needed. For the other 5 recommendations, we made some changes to the report for clarification and modified the recommendations slightly. Summaries of the Bureau's response to each recommendation and our comments are included at the end of each finding section. The Bureau's complete response is in Appendix 4. Appendix 5 shows the status of each recommendation and Bureau actions required to resolve or implement our recommendations.

In accordance with the Departmental Manual (360 DM 5.3), we request your written response to this report by November 30, 1989. Your response should provide the information requested in Appendix 5. The legislation creating the Office of the Inspector General, as amended, requires semiannual reporting to the Congress on all reports issued, the monetary impact of audit findings, actions taken to implement audit recommendations, and identification of each significant recommendation on which corrective action has not been implemented.


Harold Bloom

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INTRODUCTION

BACKGROUND

The Secretary of the Interior was designated by the U.S. Congress as the Government trustee on behalf of the account holders of Indian trust funds. Authority was delegated to the Assistant Secretary for Indian Affairs for managing the trust funds, including accounting and financial reporting. The Assistant Secretary carries out his management responsibility through the Bureau of Indian Affairs. The Bureau's basic authority to invest trust funds is contained in the United States Code (25 USC 162a), which is specific for tribal and individual trust funds, and Public Law 98-146, which authorizes the investment of collections from irrigation and power projects. The primary sources of Indian trust funds are judgment awards by the U.S. Court of Claims; income generated from selling or leasing of trust resources such as timber, oil, gas, and rangeland; and collections from irrigation and power projects.

As of June 30, 1988, the Bureau had nearly \$1.7 billion invested for over 200 Indian tribes and 290,000 individual Indians. Tribal trust funds are invested separately in the name of each tribe. Individual Indian money accounts are maintained for each account holder. Interest earned on the total individual Indian money investment pool is allocated to the individual Indian accounts. The Bureau's Division of Trust Funds Management, located in Albuquerque, New Mexico, is responsible for investing all Indian trust funds. All investments must be unconditionally secured either through Government insurance from an agency such as the Federal Deposit Insurance Corporation or through pledged collateral guaranteed by the Government. Time deposits (certificates of deposit) represented about 80 percent (\$1.4 billion) of the total investments, with the remainder represented by Treasury securities and other Government agency investment issues (\$336 million).

Since 1982, the Office of Inspector General, the Comptroller General, and independent studies have reported that the Bureau's official finance and accounting system had not provided adequate accounting and other information needed for the trust fund investment program. We reported in 1983 that the general ledger and subsidiary records of actual investments were not in agreement and needed to be reconciled, and we cautioned that the out-of-balance condition could lead to investment losses. We recommended that the Bureau reconcile its financial records and that it consider contracting a portion of its trust fund activity to a financial institution. On September 14, 1988, the Bureau awarded a contract to a national banking facility to operate the investment program for the Bureau. The investment program is to be operational in October 1989.

OBJECTIVE AND SCOPE

Since a certified public accounting firm was conducting a full-scope financial audit of Bureau investments, the objective of our audit was limited to determining whether investments of \$1.7 billion as of June 30, 1988, shown in the Bureau's official accounting records and reported to the U.S. Treasury, were valid. For certificates of deposit totaling \$1.4 billion, we conducted an unannounced physical inventory of all

certificates of deposit and investment receipts held by the Bureau, photocopied each document, and created a data base of all documents inventoried. We then reconciled this data base inventory, on a document-by-document basis, with the Bureau's subsidiary investment records (see MoneyMax and Information System in Appendix 1) as of June 30, 1988, to determine whether any documents were missing. For those 160 instances (\$111 million) where we could not verify reason why a certificate or receipt was not on hand during our inventory, we conducted unannounced visits to 79 banks to confirm that the investment transactions as recorded in the Bureau's subsidiary records matched the banks' financial records. For other investments totaling \$336 million held in Treasury securities and other Government agency investment issues, we sent confirmation letters to each Government agency and compared the results with Bureau records.

Our audit of the \$1.7 billion invested by the Bureau was made in accordance with the "Government Auditing Standards," issued by the Comptroller General of the United States. Accordingly, we included such tests of records and other auditing procedures that were considered necessary under the circumstances. In addition, we evaluated the audit reports issued by the certified public accounting firm based on our audit results and 30 prior audit reports issued from 1982 through 1989 (see Appendix 2).

PRIOR AUDIT COVERAGE

From 1982 through 1989, the Office of Inspector General issued 30 audit reports that covered some aspect of the Bureau's management and accounting for trust funds (see Appendix 2).

FINDINGS AND RECOMMENDATIONS

A. ACCURACY OF FINANCIAL RECORDS

The Bureau's official general ledger and subsidiary accounting records of trust fund investments were considered unreliable because they contained numerous discrepancies and inaccuracies. The Bureau's fiduciary responsibilities require accurate accounting and reporting of all tribal and individual Indian trust fund investments. The primary cause of this unreliable accounting system was that the Bureau did not perform adequate reconciliations of subsidiary records of actual investments with the official general ledger accounting records, implement effective internal controls, and correct long-standing unresolved differences in individual accounts. As a result, the Bureau's general ledger accounting balances exceeded confirmed certificates of deposit and other investments by \$17 million (\$3.1 million for certificates of deposit and \$13.9 million for other investments), and we believe that these missing funds may never be accounted for or recovered. A certified public accounting firm's review of trust fund records as of September 30, 1988, disclosed that unaccounted for funds totaled about \$19 million. We concluded that the accounting accuracy of the entire \$1.7 billion invested for Indian tribes and individual Indians lacked credibility.

Accounting Process

Multiple accounting systems were employed to record the same financial transactions relating to trust fund investments; however, these systems were not reconciled or kept in balance with each other. Numerous problems existed in the official accounting process for trust fund activities, as well as discrepancies between the official records and the various subsystems or subledgers utilized by the Bureau and errors within the various subsystems. These subsystems include the MoneyMax and Information Systems, utilized to monitor investments and the related collateral pledged by financial institutions to secure investments, and the automated system, used for various functions by the area and agency offices to serve individual Indians and tribes. During the certified public accounting firm audit, the accounting firm's staff identified numerous errors in the trust fund accounting system that resulted in cumulative adjustments being required to prepare financial statements.

The accounting firm's reports stated that the errors and related adjustments were caused by a wide variety of procedural weaknesses in the accounting systems and the internal control procedures being used by the Bureau. The reported weaknesses were so pervasive and fundamental as to render the accounting systems unreliable. Some of the most significant problems reported by the accounting firm included the following:

- Accounting entries were prepared and posted without adequate review.
- Multiple accounting systems were used to record the same activities and were not kept in balance or reconciled.

- Many instances of inadequate segregation of duties existed. At many locations the same employees transferred assets among accounts and opened new accounts, resulting in the opportunity for intentional or unintentional misuse of resources.

- Record retention and filing procedures at certain locations were not sufficient to document related activities and account balances.

- Overpayments to certain Indian tribes and individuals occurred because of misposting of receipts or other accounting errors.

- Payments to individual Indian money account holders were based in many instances on extensive manual calculations that were not reviewed or test checked.

- Certain transactions such as certificate of deposit maturities were recorded prior to their actual occurrence.

- The Bureau's misinterpretation of Federal depository insurance coverage of its investments resulted in certain certificates of deposit not being fully recouped from failed financial institutions.

Because of these deficiencies, serious fund shortages and other problems occurred as follows:

Missing funds. As of June 30, 1988, differences in the adjusted general ledger balances for investments and the Office of Inspector General-confirmed investments were as follows:

	<u>Certificates of Deposit</u>	<u>Other</u>	<u>Total</u>
General Ledger	\$1,404,700,406*	\$336,784,719	\$1,741,485,125
Audit Results	<u>1,401,603,391</u>	<u>322,925,208</u>	<u>1,724,528,599</u>
Differences	<u>\$ 3,097,015</u>	<u>\$ 13,859,511</u>	<u>\$ 16,956,526</u>

*The general ledger total for certificates of deposit was adjusted for failed banks and certificates that matured on June 28, 1988. Bureau accounting personnel agreed to the adjusted balance for audit verification purposes.

Since we could not determine that the \$17 million difference in the official accounting records was the result of specific accounting errors, we believe that the overstatement may represent misappropriated or otherwise missing assets. In comparing actual investments with subsidiary records, we identified \$35 million in differences that had to be reconciled. We also had to visit 79 banks to confirm \$111 million in certificates of deposit for which the Bureau had inadequate documentation to support the investments. For certificates of deposit, we confirmed the actual existence of each certificate as either being in the Bureau's possession or at one of the 79 banks. For other investments, we compared

confirmation letters with the Bureau's records. After this verification, however, the official accounting records still exceeded the confirmed investments by \$17 million.

Other losses. The effects of inaccurate accounting for investments extended beyond simple noncompliance with accounting principles and adversely affected both tribes and individual Indians. The Bureau could, depending on the type and significance of the errors, underinvest or overinvest available trust funds, which would cause either the loss of interest income for account holders or unauthorized drawdowns from the U.S. Treasury.

When tribes do not receive correct accounting information, they could erroneously withdraw funds from their accounts funds that do not belong to them. An example was described in a previous Office of Inspector General report "Review of Jemez Pueblo Judgment Award Funds, Bureau of Indian Affairs" in which the Jemez Pueblo withdrew \$320,000 from one of its accounts that had an overstated balance. A bill for collection was subsequently issued to the Pueblo to recover this amount. When accounts are overstated or when funds not belonging to tribes are released to tribes, an unauthorized loan, in effect, is created and the Government incurs additional interest costs.

Additionally, when errors such as this are detected and tribes are asked to repay funds, the credibility of the Bureau as a steward of Indian trust funds is seriously damaged and tribal and individual Indian hardships can result. For example, a previous Office of Inspector General report "Review of Pueblo of Taos Judgment Award Trust Funds, Bureau of Indian Affairs" indicated a \$1.2 million overstatement in the Taos Pueblo's tribal accounts and recommended that the Bureau recover the funds with interest. The Pueblo reacted angrily at the perceived lapse in the Bureau's fiduciary responsibility and expressed concern that the Bureau's mishandling of the Pueblo's trust funds had seriously damaged its ability to fund essential community programs such as fire protection, water, sewer, and electrical services. The Pueblo's council passed a resolution calling for legal action against the Government because of the errors. While legal action has not been taken, the resolution and sentiments which motivated the resolution clearly portray the ill will which can result from erroneous balances.

The certified public accounting firm's report indicated that other errors had occurred and numerous internal control weaknesses and compliance problems permeated the entire trust fund activities. For example, our audit of the Sioux Nation account disclosed unexplained differences ranging from \$1.1 million to \$7.1 million since 1981 as follows:

<u>Fiscal Year Ending</u>	<u>General Ledger Records</u>	<u>Subsidiary Records</u>	<u>Difference</u>
9/30/81	\$103,766,645	\$106,316,915	\$(2,550,270)
9/30/82	121,893,398	124,420,119	(2,526,721)
9/30/83	133,729,135	134,798,144	(1,069,009)
9/30/84	151,230,288	150,096,037	1,134,251
9/30/85	165,304,862	167,366,377	(2,061,515)
9/30/86	172,849,806	179,773,324	(6,923,518)
9/30/87	186,216,985	179,159,706	7,057,279
6/30/88	204,024,809	205,130,392	(1,105,583)

Subsequent to our audit, the Bureau reconciled this account. However, other accounts with known differences such as this account should be reconciled and corrected.

Inadequate Management and Control

As discussed in the certified public accounting firm's reports and prior Office of Inspector General reports (see Appendix 2), the Bureau's internal control and financial compliance problems are pervasive and raise serious concerns about the accuracy of the Indian trust fund accounting. The primary reason for the unreliable accounting is the lack of (1) the establishment of one manager to oversee the entire trust fund activity, (2) the implementation of appropriate internal control procedures, and (3) the enforcement of compliance requirements and the use of multiple accounting systems (that are not routinely reconciled) to track trust funds. Tribal organizations and classes of Indian individuals have filed numerous claims against the Secretary of the Interior for failure to fulfill his fiduciary responsibilities. The Solicitor has indicated that the volume of Indian trust fund accounts precludes a detailing of all possible existing or potential claims which do or might relate to these trust accounts. The Bureau is potentially liable for any mismanagement that results in any loss of the \$1.7 billion of assets.

Fiduciary Responsibility

The primary purpose of the trust fund activity is to protect the trust funds of all Indians and Indian tribes. The stewardship of those funds is perhaps the purest expression of the Bureau's trust responsibility to Indians, particularly as it relates to managing funds belonging to incompetent Indians and minors. Considering this responsibility, the Bureau should manage the funds as efficiently as possible. This report and the certified public accounting firm's reports contain numerous recommendations which should help improve overall effectiveness of managing the funds. However, we do not believe that correcting the accounting errors and internal control weaknesses alone will guarantee that similar type problems will not recur. In our opinion, two basic managerial control elements need to be included to ensure a continuing effective operation.

Central authority. There is no single individual who has the overall authority and responsibility for all trust fund activities. Currently, trust accounting, data processing, investment, realty, and various field operations are all performed by various divisions within the Bureau. No one individual has the responsibility to ensure that this multiple involvement does not result in inconsistent policy and/or managerial control within the operation. For example, the Office of Administration has primary responsibility for accounting procedures and internal controls. The Branch of Investments, which invests all trust funds, is under the direction of the Office of Trust Responsibilities. Comprehensive directives relating to management and operation of the individual Indian money accounts are the responsibility of the Office of Indian Services.

Our audit determined that any of these offices could independently develop and implement policies which could affect the control and operation of the various systems in general. There was no assurance that these policies would interrelate and that they would be conducive for the most effective operation. Centralized control of all computer applications is currently evolving within the Office of Data Systems. Therefore, it is important that a single responsible office be established not only to approve system changes and control system configuration but also to ensure that system changes are in consonance with basic requirements of all offices involved in the trust fund operations.

Of equal importance, a single authority is needed to coordinate and accomplish necessary corrective actions to improve operations in the offices involved. In this context, requiring and monitoring cyclical reviews of area/agency operations (discussed in the following subsection) should be a primary responsibility of this central authority for trust fund operations.

Cyclical reviews. The individual Indian money operation, involving some 60 areas/agencies throughout the United States, could be defined as a large quasi-banking system with the same vulnerabilities to fraud and abuse as that of a regular banking system. As such, we believe that these individual area/agency operations should be reviewed periodically as are regular banking operations.

What we envision, in this respect, is a unit staffed with accountants/auditors whose primary objective would be to perform periodic reviews at all area and agency offices which maintain individual Indian money accounts. The reviews should include, but not be limited to, the following areas:

- Accuracy and timeliness of account reconciliations with Albuquerque's corresponding control accounts.

- Adequacy of control over disbursements from all supervised accounts.

- Accuracy of interest computations and timeliness of interest postings thereof.

- Prohibition of voluntary deposits.
- Timely distribution from special deposit accounts.
- Excessive inactive accounts.
- Proper maintenance of estate accounts.
- Timely and aggressive disposition of unclaimed moneys.
- Internal controls, particularly in the areas of (1) segregation of employee duties and responsibilities, (2) cash collections and deposits, (3) access control over individual Indian money records, and (4) timely issuance of account holders' statements of accounts.

Time intervals in performing these reviews would vary depending on such circumstances as the size of the operation (number of account holders and dollar amounts collected), competency of staffs, and review staff available. However, we believe that the reviews should be performed no less frequently than every 2 years.

Recommendations

The Bureau contracted with a financial institution to perform some of its investment, disbursement, and record-keeping duties. The arrangement with the financial institution, beginning October 1, 1989, will replace and/or modify significant portions of the Bureau's present cash and investment management procedures, accounting procedures, and the extent to which the U.S. Treasury is utilized. However, the Bureau will still be responsible for overall management, as well as the accuracy, of investments and related accounting data furnished to the financial institution. In addition, the Bureau will still collect and deposit collections on behalf of individual Indians and Indian tribes, as well as oversee and monitor the financial institution's performance. Recommendations 1 through 4 are applicable under both the present and future arrangement. In responding to Recommendation 5, the Bureau should evaluate each recommendation made by the certified public accounting firm in light of the impact of the financial institution's contract on trust fund operations.

We recommend that the Assistant Secretary for Indian Affairs:

1. Adjust the general ledger to agree with the confirmed subsidiary records for investments.
2. Resolve the long-standing differences in tribal judgment account balances that exist between the official accounting records and the subsidiary records and adjust appropriate records accordingly.
3. Establish a managerial position which will have complete responsibility and authority over all components of trust fund operations.

4. Create or assign an organizational unit to have the specific responsibility of performing cyclical reviews of individual Indian money operations at all appropriate area/agency offices and place this unit under the direct supervision of the managerial position established by Recommendation 3.

5. Provide an action plan that addresses the recommendations in the certified public accounting firm's reports on internal controls and compliance or specific reasons for nonconcurrence.

Bureau of Indian Affairs Response

Recommendation 1. The Bureau concurs and will make the adjustments by the end of October 1989 and designated the Chief, Division of Trust Fund Accounting, as the responsible official.

Recommendation 2. The Bureau asked us to revise the recommendation to be specific as to tribal judgment accounts. The Bureau stated that the revised recommendation could be implemented between January 1991 and December 1995.

Recommendation 3. The Bureau concurs and stated that action will be initiated to establish a Deputy to the Assistant Secretary - Indian Affairs for Trust Fund Management. The Bureau's pending fiscal year 1991 budget request, if approved, will implement the recommendation.

Recommendation 4. The Bureau concurs and has requested funding for fiscal year 1991 to establish such an office under the direction of the Deputy to the Assistant Secretary - Indian Affairs for Operations.

Recommendation 5. The Bureau concurs and has asked each area director to prepare a corrective action plan for internal controls and compliance exceptions by November 15, 1989.

Office of Inspector General Comments

Recommendation 1. Resolved. The Bureau should notify us on completion of the corrective action.

Recommendation 2. The recommendation was revised as requested by the Bureau. We believe that the Bureau can implement this recommendation earlier than December 1995 and ask that it reconsider the proposed target date.

Recommendation 3. Resolved. This recommendation will be referred to the Assistant Secretary - Policy, Budget and Administration for tracking of implementation when all report recommendations are resolved.

Recommendation 4. Resolved. This recommendation will be referred to the Assistant Secretary - Policy, Budget and Administration for tracking of implementation when all report recommendations are resolved.

Recommendation 5. This recommendation will be considered resolved when the area directors have prepared their action plans that are due November 15, 1989. Copies of these action plans, including target dates for implementation, should be provided to us when the plans are completed.

B. NONRECOGNITION OF INVESTMENT LOSSES

The Bureau has neither recognized investment losses in its official accounting records nor reimbursed accounts (when appropriate) for losses of invested Indian trust funds. The Act of June 24, 1938, authorizes the funds of any Indian or tribe held in trust by the United States to be invested only in public debt obligation of the United States and in bonds, notes, or other obligations which are unconditionally guaranteed as to both principal and interest by the United States. Inherent in this Act is the responsibility to properly account for the trust funds. The Bureau did not properly exercise this responsibility because it had no formal policy and related procedures for recognizing losses of invested trust funds. As a result, Indian trust fund accounts were not reimbursed for investment losses and accumulated interest of about \$12 million.

Specific instances of Indian trust fund losses are discussed in the following sections.

Fraudulent Acts (\$2.6 Million)

Through a series of fraudulent acts and omissions from January 26 to March 27, 1984, an insurance broker, representing himself as acting in behalf of a credit union, established an account in a Kansas City bank in the name of the credit union. The broker then obtained the transfer of \$7.8 million of Indian trust funds from the Bureau to that account. After the Bureau realized that it had not received appropriate certificates of deposit for the transferred funds, it obtained a restraining order prohibiting the bank from disbursing any more funds from the credit union account. The Bureau was eventually able to recover about \$3.1 million from the credit union account in the bank and another \$3.2 million from various loans and investments that the broker had initiated after fraudulently disbursing money from the credit union account. However, we believe that as of April 30, 1989, only about \$79,000 of the remaining unrecovered \$1.5 million principal may be recoverable.

We computed interest of \$1.2 million that would have been earned on the recovered and unrecovered portions of the \$7.8 million as of April 30, 1989. None of the lost principal or interest had been recognized in the appropriate accounts which lost the funds as a result of the fraudulent actions.

Bureau officials said that they, at various times, discussed how to reimburse the Indian accounts for the investment loss but that the issue was never resolved. The last memorandum regarding the losses, dated February 3, 1988, from the Chief, Division of Trust Funds Management, to the Acting Deputy to the Assistant Secretary for Indian Affairs, recommended that available appropriated funds from fiscal years 1985, 1986, and 1987 be used to cover the lost principal and interest as applicable. At the time of our audit, Bureau officials had not acted on the issue.

Failed Financial Institutions (\$7 Million)

Since 1975, the Bureau invested trust funds in at least 50 financial institutions which subsequently failed. We reviewed a judgmental sample of 15 institutions which had failed between January 1983 and February 1988 and found that \$3.9 million of invested trust fund principal was unrecovered as of April 30, 1989, in 5 of the 15 institutions. Approximately \$3.1 million of the \$3.9 million was unrecovered for almost 5 years, and none of the appropriate account holders (generally individual Indian money account holders) which sustained the losses had been reimbursed for the lost principal. We believe that approximately \$677,000 may still be recoverable. We computed interest of \$3.8 million that would have been earned on the unrecovered funds as of April 30, 1989.

The Associate Solicitor, Division of Indian Affairs, reviewed the circumstances surrounding the five institutions and stated that initiation of litigation in this matter would not be effective. During the latter part of our audit, the Bureau began a "top priority" review of all failed financial institutions, the objectives of which were to identify all trust funds that had been lost and to compute related interest on these funds. Consequently, we did not make a recommendation in regard to determining total losses from all failed banks.

Other Investment Losses (\$2.3 Million)

Farmers Home Administration Loans. Between August 31 and November 30, 1978, the Bureau purchased eight bank loans from a securities broker, ostensibly guaranteed by the Farmers Home Administration, for \$2.7 million. Two of these loans, totaling \$689,000, were never guaranteed by the Farmers Home Administration, and the Bureau subsequently lost the principal. In regard to the other six loans, the Bureau received the documentation guaranteeing the loans; however, the Bureau transferred the funds for the loans to the broker 7 to 99 days before the Farmers Home Administration processed the loans. The Bureau would not have started to earn interest on the loans until the loans were guaranteed by the Farmers Home Administration, and the Bureau lost about \$42,000 of interest on the funds that were prematurely transferred before the loans were guaranteed.

The Bureau initiated legal action against the broker in October 1979 to recover \$731,000 for the unguaranteed \$689,000 plus \$42,000 of earned interest that was lost from the time of the premature fund transfers. The broker filed for bankruptcy, however, and when the Justice Department finally closed its file on the case in July 1985, the Bureau had not collected any of the principal or accrued interest.

We computed interest of \$1.4 million that would have been earned on the \$731,000 as of April 30, 1989. None of the unrecovered principal and accrued interest had been returned to the appropriate accounts, which lost the funds as a result of the questionable actions, and as far as we could determine, the Bureau made no attempts to do so.

Nonpayment of interest by credit union. The Bureau purchased from a credit union two certificates of deposit maturing in February and March 1985 in the amounts of \$1 million and \$178,000, respectively. When the certificates were nearing maturity, the Bureau sent the standard notification to the credit union requesting remittance of the principal amounts and the earned interest of \$133,000. The credit union returned the principal amounts without the earned interest and stated that the Bureau had not purchased certificates of deposit but instead had purchased share accounts in the credit union, which were subject to payment of dividends on a funds available basis. The credit union further stated that no funds were available to pay dividends. The Bureau said it considered referring the matter to the Solicitor in 1985 but inexplicably did not, and the matter is still unresolved.

We computed interest of \$38,000 that would have been earned on the \$133,000 as of April 30, 1989, during the period the interest remained unrecovered. None of the unrecovered amount has been returned to the appropriate accounts, which lost the funds as a result of the credit union's actions.

Reimbursement of Investment Losses

As demonstrated in the previous sections, Indian trust funds (principally individual Indian money funds) have been lost, and the appropriate account holders were not reimbursed for their losses plus related interest income. We believe this loss of trust funds is inconsistent with the fiduciary and trust responsibility the Bureau has over Indian resources and with the restrictive investment operating parameters which the Congress has instituted to ensure the safety of Indian trust funds.

We believe that the primary reason why Indian account holders were not reimbursed for the losses they sustained is because the Bureau did not have a formal policy to reimburse account holders for losses. We found only one attempt by the Bureau, in February 1988, to reimburse account holders (the previously mentioned \$1.5 million lost by fraud). From our review, we determined that the Bureau's practice regarding known losses of trust funds has been not to disclose the losses and to wait for the account holders to become aware of the losses (if they ever do) and to file a claim or sue the Government for recovery of the funds.

We believe that the Bureau should establish a policy that ensures that account holders who have sustained losses of principal and interest are able to recoup those losses after a reasonable period of time has elapsed. Our analysis of the 15 failed institutions showed that 77 percent of the total recovery of invested funds (mostly from the insuring organizations) occurred within the first 60 days after failure of the institution. The average recovery time, exclusive of one extreme case, of all insured funds was 57 days. We consider it unreasonable that reimbursement of the remaining unrecovered principal plus applicable interest has been delayed for periods up to 5 years. Once it is known that there is a reasonable probability that invested funds will not be recovered, the affected accounts should be reimbursed expeditiously. If additional recoveries of funds are realized by the Bureau after recognition and reimbursement of the losses, those receipts should be returned to the Treasury Department.

Sometimes the Bureau was responsible for the losses discussed in this finding, and other times the losses were beyond the Bureau's control. Regardless, Indian trust funds, for which the Bureau had a fiduciary responsibility for safekeeping, were lost and not replaced. Consequently, decisions must be made regarding the Bureau's liability for reimbursement of the losses of these funds and appropriate interest, and if reimbursement is required, the manner in which the reimbursement could be most effectively accomplished should be determined. Each of the instances of lost funds previously described should be reviewed by the Solicitor's Office, and a determination should be made as to the Bureau's liability for reimbursement of both the principal and the interest. In one recent situation, which was reviewed by the Solicitor, it was decided that the Bureau was not liable for interest lost because of a delay in reimbursement caused solely by the insuring agency. However, we believe that the Bureau will always be liable for payment of lost interest if it does not take timely action for reimbursement of lost trust funds.

Recommendations

We recommend that the Assistant Secretary for Indian Affairs:

1. Request a Solicitor's opinion on the following issues:
 - a. For each of the instances discussed in this finding, the Bureau's liability regarding lost trust funds plus applicable interest should be determined.
 - b. For those instances where it is determined that the Bureau has the responsibility to return lost principal plus interest or just lost principal, the most appropriate method for the Bureau to reimburse the tribal/individual account holders should be determined.
2. Establish written policies that definitize when the Bureau is liable for losses and how Indian accounts will be reimbursed in those cases for which the Bureau is liable.
3. Prepare and implement a Bureau procedure that recognizes investment losses of trust funds and ensures the reimbursement of the losses plus interest, where appropriate, within a reasonable time after sustaining the losses.

Bureau of Indian Affairs Response

Recommendation 1. The Bureau concurs and will refer the instances in the report to the Solicitor for a determination of potential liability and will seek authorizing legislation to reimburse the trust funds if determined appropriate.

Recommendation 2. The Bureau disagrees with this recommendation on the basis that it has no statutory authority to act as guarantor or any authorization or appropriation to pay for losses.

Recommendation 3. The Bureau agrees that a procedure should be implemented to recognize investment losses. However, the Bureau

disagrees with establishing procedures to effect reimbursement of such losses.

Office of Inspector General Comments

Recommendation 1. This recommendation will be considered resolved when the Bureau provides a copy of the request for Solicitor's determination.

Recommendation 2. The Bureau's response is inadequate. As discussed in the finding, there have been losses incurred that after consultation with the Solicitor will require the Bureau to seek appropriation authority to reimburse. Obvious instances of fraud and gross mismanagement by the Bureau will result in decisions that will require the Bureau to seek authorization to reimburse the injured tribe or individual Indians. Our view is that the Bureau, in consultation with the Solicitor's office, should identify such instances and establish policy for when to recognize such losses and the procedures to follow for seeking authorization to reimburse the appropriate parties.

Recommendation 3. The Bureau's response resolves the first half of our recommendation. As discussed under our Recommendation 2 comments, our view is that the Bureau needs to take a more proactive approach that ensures that tribes and individual Indians are reimbursed for losses for which the Bureau is at fault. The policies and procedures to do this should be developed with the Solicitor's office assistance. If it is necessary to obtain Congressional authorization for reimbursement, the procedures should include that requirement. It would be unconscionable for the Bureau not to initiate reimbursement efforts when it is at fault.

C. ACCOUNTING FOR GUARANTEED LOANS

The Bureau did not adequately control Indian trust funds invested by the Bureau in Government-guaranteed loans. The primary purpose of the trust fund activity is to protect the trust funds of all Indians and Indian tribes. In 1983, the Bureau transferred about half of its guaranteed loans to a fiscal agent without documenting the actual number and dollar value transferred. As a result, the Bureau lost overall accountability over about \$23 million of trust funds invested in guaranteed loans, with no assurance that losses of principal and interest did not occur from loans which either were in default or were improperly liquidated. No evidence was available to support the payoff of loans totaling \$3.5 million maintained by the agent or \$1.5 million of loans retained by the Bureau.

The Bureau purchased guaranteed equities of hundreds of Small Business Administration and Farmers Home Administration guaranteed loans from the early 1970s to about 1982. A guaranteed loan ensures that the Bureau will be reimbursed by the appropriate guaranteeing agency for the purchased equity in the loan in case of loan default. Until January 1983, the Bureau had total responsibility for collecting and accounting for all its guaranteed loan investments, which totaled \$23 million. In January 1983, the Bureau transferred various Small Business Administration and Farmers Home Administration guaranteed loans to a fiscal and transfer agent designated by the Small Business Administration. The fiscal agent had the responsibility of collecting the loan payments from the payors, providing a single monthly statement and check for all payments collected, and filing claims on behalf of the Bureau for loans in default.

Sometime after the transfer of some loan collection responsibilities to the fiscal agent, the Bureau did not ensure guaranteed loan accountability on all loans, regardless of whether they were retained or transferred. None of the loan account detail was incorporated into the Bureau's automated subsidiary accounting records, and the manual records for the loan accounts were no longer maintained on a consistent basis. By 1988, Bureau personnel were not able to identify which loan accounts that totaled \$23 million in 1983 had been retained by the Bureau and which had been transferred to the fiscal agent.

Our review indicated two major areas in which the Bureau was not able to account for guaranteed loans: (1) the actual number of loans transferred to the fiscal agent and (2) the final payoff of the loans, both retained and transferred. These areas are discussed in the following sections.

Number of Loans Transferred to Fiscal and Transfer Agent

The actual number and dollar value of loans transferred to the fiscal agent are unknown. Bureau personnel could not identify the actual number of loans or dollar value transferred; however, personnel stated that they thought about 75 loans had been transferred to the fiscal agent. After an extensive review of available loan file data, we identified documentation showing that 64 loan accounts with a face value of over \$11

million were transferred and 70 loans with a value of over \$11 million were retained. However, the fiscal agent's records of the number of loans received from the Bureau do not agree with either the Bureau's number of 75 or the 64 shown in documentation we found. In reply to our confirmation request, the fiscal agent stated that it had received 56 loans from the Bureau.

Final Payoffs of the Loans

Numerous instances were noted where it was questionable as to whether the Bureau's records accurately reflected the final payoff of various loans. These instances applied both to loans transferred to the fiscal agent and those retained by the Bureau.

Loans transferred to fiscal and transfer agent. Significant differences were noted among the Bureau records, fiscal agent records, and our audit results relative to loans that still had outstanding balances. As of April 1, 1988, Bureau records indicated that eight loans turned over to the fiscal agent still had outstanding balances. The fiscal agent, in response to our confirmation request, indicated that only one loan had an outstanding balance. We reviewed all available remittance advices submitted by the fiscal agent and did not find any evidence of final payoff for 17 loans with a face value of \$3.5 million. We believe that these funds may have been lost or misappropriated.

Further, in regard to two loans where final payoff remittance advices were documented, there were no payments of anticipated interest, along with the final principal payments. On another loan final payoff, the principal amount paid was \$2,000 less than the remaining principal amount shown per an earlier remittance advice dated the day before the final payment. There were no explanations by the fiscal agent for these discrepancies, and there was no indication that Bureau personnel attempted to clarify the payments or otherwise reconcile the accounts.

Loans retained by the Bureau. Significant differences were also noted between Bureau records and our audit results relative to those loans which had been retained by the Bureau and still had outstanding balances. As of April 1, 1988, Bureau records indicated that three loans had outstanding balances. When we reviewed all available payment data for the loans that had been retained by the Bureau, we could not locate final payoff information for eight loans with a face value of \$1.5 million. We could not confirm that these funds were not lost or misappropriated. We also selected two of the Bureau-retained loans, which had outstanding balances, for detailed review to determine the status of each. According to Bureau records, the Bureau had not received payments on either loan for several years. We found that one loan had actually been paid off by the Small Business Administration because of a bankruptcy action, but the Bureau did not post the final payoff amount to the manual record and was still accruing interest in excess of \$20,000 on the liquidated loan.

Regarding the second loan account, we did not find documentation showing that any payments had been received on the balance since 1985, and there was no indication that Bureau personnel were even aware of the specific

bank that was supposed to be collecting the payments on behalf of the Bureau. We visited the bank, examined applicable records, and determined that the bank had received payments from the borrower; however, the bank did not remit the funds to the Bureau because of apparent in-house errors. As a result of our visit, the bank forwarded a check for nearly \$40,000 to the Bureau for the loan receipts and interest that should have been remitted.

We believe that the \$40,000 of trust funds may not have been recovered by the Bureau if we had not inquired about the status of this loan. We also believe that additional trust funds could be in the same status as the \$40,000, that is, invested in guaranteed loans in which the Bureau is either unaware of the outstanding loans or unaware of the correct balances of the outstanding loans. Bureau trust fund personnel stated that they had inadequate resources to monitor guaranteed loans. Yet, the Bureau's investment of trust funds in guaranteed loans is not recorded in detail in any of its automated subsidiary accounting systems. Since the Bureau has had and will continue to have the trust responsibility for these loans (including the loans assigned to a fiscal agent), it should determine and maintain an accurate record of these loans and their outstanding balances.

Recommendation

We recommend that the Assistant Secretary for Indian Affairs direct the Division of Trust Funds Management to thoroughly review all guaranteed loan investments that were in effect as of January 1983 and determine which of those loans have been properly paid off. For those loans which still have valid outstanding balances, the Bureau should maintain the accounts on a current basis. Any loans that cannot be reconciled should be referred to the Office of Inspector General for investigation.

Bureau of Indian Affairs Response

The Bureau concurs and will direct the Division of Trust Funds Management to implement the recommendation.

Office of Inspector General Comments

The recommendation will be considered resolved when we receive a copy of the directive to the Chief, Trust Funds Management, establishing the target date and required actions.

D. TREASURY OVERNIGHT INTEREST

Tribal trust fund accounts for over 200 tribes were not credited with the correct interest for overnight deposits with the U.S. Treasury for July 1985 through December 1986. Public Law 98-451 requires the Bureau to notify the Treasury each day of the amount of unallotted funds in order to invest in Public Debt Securities any trust fund monies not allotted for other investment by the Bureau. During the 18-month period July 1985 through December 1986, the Bureau underreported the daily amounts on deposit with the Treasury. As a result, the Bureau did not earn all overnight interest that the trust funds should have earned for that period. Unearned and undistributed interest for the period amounted to \$2.4 million (including interest) as of April 30, 1989.

Treasury overnight interest is required to be paid on all uninvested trust funds on deposit with the Treasury from the date of deposit until the funds are withdrawn for investment in certificates of deposit or some other Government-guaranteed investment. In February 1987, when the Bureau calculated the Treasury interest owed to tribal trust fund accounts for uninvested funds deposited with the Treasury during portions of the period July 1985 through December 1986, the Bureau determined that it owed the accounts \$5.4 million. The Division of Trust Funds Management only earned \$3.5 million during the period because the Bureau underreported the daily amount of funds on deposit with the Treasury. The inability to collect accurate data from the Minerals Management Service and the Bureau area and agency offices which make deposits and to report the data to the Treasury daily was evident prior to 1987.

In September 1987, the Assistant Secretary for Indian Affairs wrote a letter to the Fiscal Assistant Secretary of Treasury discussing and seeking assistance to resolve the problem. Treasury rejected the suggestion that Treasury funds be released to cover the interest for unreported deposits. No action has been taken to pay the amount owed for unearned and undistributed interest covering the period July 1985 through December 1986, even though the Bureau is current for subsequent periods of overnight interest. Appendix 3 shows the 41 tribes that are individually owed more than \$10,000.

Recommendations

We recommend that the Assistant Secretary for Indian Affairs:

1. Request a Solicitor's opinion to determine the liability of the U.S. Treasury or the Bureau of Indian Affairs for the undistributed interest for July 1985 through December 1986.
2. Distribute to the Indian tribal accounts the overnight interest for July 1985 through December 1986.

Bureau of Indian Affairs Response

The Bureau stated that the fiscal year 1990 Interior Appropriations Bill, as passed by the Senate, includes language that would allow the Bureau to repay the trust funds for interest not earned because of underinvestments.

Office of Inspector General Comments

The Bureau's action will resolve the two recommendations. However, the Bureau should inform us of the final Congressional action on its proposal.

GLOSSARYGENERAL LEDGER (OFFICIAL ACCOUNTING RECORDS)Status of Trust Funds/General Ledger

The Status of Trust Funds is a monthly listing of invested and uninvested funds for each appropriation, activity, and tribe. The data on this listing is generated from the Bureau's official accounting system and is summarized in the General Ledger. The General Ledger contains summarized financial data from the official accounting system relative to trust funds, as well as to the other categories and types of funds.

INDIVIDUAL INDIAN MONEY FUND

A deposit fund, usually not voluntary, for individual Indians. It was originally intended to provide banking services for legally incompetent Indian adults and Indian minors without legal guardians. In addition to these fiduciary accounts, the fund now contains disbursing accounts for certain tribal operations and for certain tribal enterprises. Approximately 290,000 accounts are held for individuals and tribal enterprises in the fund. These individual accounts are not separately identified in either the Status of Trust Fund or MoneyMax.

SUBSIDIARY INVESTMENT RECORDSInformation System

An automated system created from investment purchase data prepared by the Division of Trust Funds Management. This automated system contains information on tribal investments for individual tribes in each financial institution and lists maturity dates and other relevant information. This system is primarily used for managing the investment process.

MoneyMax System

A contractor-provided and contractor-maintained automated system which is leased by the Bureau and is created from investment purchase data prepared by the Division of Trust Funds Management. It provides more detail on investments than the Information System and is the principal subsidiary record supporting the Status of Trust Funds/General Ledger. Monthly reports on tribal investments are generated from this system and sent to each tribe.

SUMMARY OF OFFICE OF INSPECTOR GENERAL AUDIT REPORTS
ISSUED FROM 1982 THROUGH 1989 ON TRUST FUND-RELATED ACTIVITIES

INDIVIDUAL INDIAN MONEY ACCOUNTS

Report No. C-IA-BIA-24-83. "Accounting Controls Over Tribal Trust Funds, Bureau of Indian Affairs," September 1983.

Report No. C-IA-BIA-22-84. "Review of Individual Indian Money Accounts Administered by Bureau of Indian Affairs' Anadarko Agency," March 1985.

Report No. C-IA-BIA-22-84(a). "Review of Individual Indian Money Accounts Administered by Bureau of Indian Affairs' Osage Agency," September 1985.

Report No. C-IA-BIA-22-84(b). "Review of Individual Indian Money Accounts Administered by Bureau of Indian Affairs' Concho Agency," July 1985.

Report No. C-IA-BIA-23-84. "Review of Individual Indian Money Accounts Administered by Bureau of Indian Affairs' Pine Ridge Agency," March 1985.

Report No. C-IA-BIA-34-84(b). "Review of Individual Indian Money Accounts Administered by Bureau of Indian Affairs' Pawnee Agency," July 1985.

Report No. C-IA-BIA-46-85. "Review of Bureau of Indian Affairs Contracts and Other Selected Activities, Yankton Sioux Tribe," February 1986.

Report No. C-IA-BIA-25-84. "Review of Individual Indian Money Accounts Administered by the Bureau of Indian Affairs (Consolidated Report)," March 1986.

Report No. W-IA-BIA-12-88. "Trust Fund Administration by Billings Area Office," September 1988.

The Bureau did not have a centralized managerial operation with responsibility and control over all aspects of the individual Indian money operation. Many Bureau agencies did not reconcile their account balances with the Bureau's control account balances, did not meet their trust responsibilities relating to funds held in supervised accounts, and made significant errors in computing interest payable on individual Indian money accounts. The agencies also had numerous accounting errors and other internal control weaknesses.

IRRIGATION AND POWER

Report No. C-IA-BIA-31-83. "Management Activities, Flathead Irrigation Project," February 1984.

Report No. W-IA-BIA-12-86. "Operation and Maintenance Assessment of Indian Irrigation," February 1988.

The Bureau had not determined the amounts of legally collectible irrigation project construction costs. Personnel had not performed reconciliations and monitoring of reimbursable construction costs to ensure control over individual projects. The Bureau had not updated repayment rates and power rates or renegotiated contracts with water and power users. Operation and maintenance charges were not assessed, billed, or collected in accordance with stipulated requirements. General ledger and subsidiary accounts were not reconciled.

OIL AND GAS ROYALTY PAYMENTS

Report No. C-IA-BIA-23-83A. "Distribution of Royalties from Federal Leases to Kiowa, Comanche, and Apache Tribes," May 1984.

Report No. C-IA-BIA-23-83. "Distribution of Oil and Gas Revenues Generated from Indian Lands," May 1985.

Report No. C-IA-BIA-52-85. "Selected Oil and Gas Royalty Payment Issues," November 1985.

Report No. C-IA-BIA-26-86. "Followup on Indian Oil and Gas Issues," May 1987.

Royalties were not distributed to Indian mineral owners in a timely manner. Interest earned on oil and gas revenues deposited in special accounts and U.S. Treasury accounts was not distributed to tribes and individual Indians. Oil and gas collections were not deposited on time.

JUDGMENT AWARD FUNDS

Report No. C-IA-BIA-14-88(b). "Review of Zia Pueblo Judgment Award Fund, Docket 137 (Appropriation Numbers 14X9057 and 14X9557)," August 1988.

Report No. C-IA-BIA-14-88(c). "Review of Santa Ana Pueblo Judgment Award Fund, Docket 137 (Appropriation Numbers 14X9058 and 14X95580)," August 1988.

Report No. C-IA-BIA-14-88(d). "Review of Acoma Pueblo Judgment Award Fund, Docket 266 (Appropriation Numbers 14X9062 and 14X9562)," October 1988.

Report No. C-IA-BIA-14-88(a). "Review of Jemez Pueblo Judgment Award Funds, Bureau of Indian Affairs," November 1988.

Report No. C-IA-BIA-14-88(g). "Review of Jicarilla Apache Judgment Award Funds, Bureau of Indian Affairs," December 1988.

Report No. C-IA-BIA-14-88(e). "Review of Pueblo of Taos Judgment Award Trust Funds, Bureau of Indian Affairs," January 1989.

Report No. C-IA-BIA-14-88(h). "Review of Mescalero Apache Tribe and Related Bands (Lipan and Chiricahua Apache) Judgment Award Funds," January 1989.

Report No. C-IA-BIA-14-88(i). "Review of the Three Affiliated Tribes' (Arikara, Hidatsa, and Mandan Indians) Judgment Award Trust Funds," January 1989.

Report No. C-IA-BIA-14-88(n). "Review of Forest County Potawatomi Judgment Award Funds--Dockets 15M, 29K, 146, 15K, 29J, and 217 (Appropriation Numbers 14X9239 and 14X9739)," January 1989.

Report No. C-IA-BIA-14-88(f). "Review of Pembina Chippewa Judgment Award Trust Funds," March 1989.

Improper accounting entries and inadequate internal controls resulted in overdisbursements of judgment award funds and negative account balances. Permanent investment accounts were reduced below authorized levels. Funds were not distributed to individual Indian money accounts.

LEASING AND REALTY OPERATIONS

Report No. C-IA-BIA-20-82h. "Review of the Management of Lands Owned by the Turtle Mountain Band of Chippewa Indians, Bureau of Indian Affairs," March 1983.

Report No. C-IA-BIA-20-82I. "Review of BIA's Management of Allotted Lands Belonging to Members of the Turtle Mountain Band of Chippewa Indians and Located in Montana," March 1984.

Report No. C-IA-BIA-36-83. "Review of Selected Realty Operations, Fort Berthold Agency, Bureau of Indian Affairs," June 1984.

Report No. C-IA-BIA-48-84. "Review of Lease Administration, Aberdeen Area Office, Bureau of Indian Affairs," March 1986.

Report No. C-IA-BIA-47-84. "Lease Administration of Indian Trust Lands, Billings Area Office, Bureau of Indian Affairs," July 1987.

Agricultural lands remained unleased for extended periods, and leases were not reissued in a timely manner. Fair rental rates and grazing fees were not charged. Delinquent rents were not collected, and interest was not collected on late rental payments. Rents were not properly distributed, and grazing fees were not equitably allocated to landowners.

TREASURY OVERNIGHT INTEREST OF \$10,000 OR MORE
DUE TRIBAL TRUST FUND ACCOUNTS
FOR JULY 1986 THROUGH DECEMBER 1986

<u>Tribal Accounting Code</u>	<u>Tribe or Tribal Entity</u>	<u>Amounts</u>
A00 A60	Sioux Nation	\$ 97,557
A04 301	Three Affiliated Tribes, Fort Berthold	106,115
A06 344	Pine Ridge Indians, South Dakota	32,152
A11 A53	American Pembina Chippewa Groups	48,538
A13 382	Lower Sioux Community in Minnesota- Santee Tribe in Nebraska	24,063
B06 802	Kiowa-Comanche-Apache Indians of Oklahoma	12,186
B06 808	Comanche Tribe	13,823
C52 202	Crow Indians of Montana	12,330
C56 206	Fort Peck Indians of Montana	22,943
C58 281	Arapaho Tribe, Wind River	30,442
C58 282	Shoshone Tribe, Wind River	32,924
E00 A48	Aleut Commission St. Paul & St. George Islands	30,094
F51 490	Sac and Fox Tribe of Mississippi in Iowa	19,782
F52 409	Red Lake Band of Chippewa Indians	14,293
F55 433	Oneida Tribe of Wisconsin	17,378
F55 436	St. Croix Chippewa Indians of Wisconsin	10,525
F60 491	Ottawa-Chippewa	45,735
F57 A10	Mdewakanton & Wahpakoota Sioux	14,242
G00 A28	Seminole of Florida & Oklahoma	15,132
G06 930	Osage Tribe	32,236
H54 610	Papago Tribe of Arizona	269,946
H57 614	Gila River Pima-Maricopa Indian Community	15,881
H62 687	Uintah & Ouray Indians, Utah	19,358
H64 662	Te-Moak Band of Western Shoshone Indians	85,203
J52 561	Hoopla Valley Tribe in California	33,855
J52 575	Hoopla Valley-Yurok Tribes	41,781
M20 711	Sandia Pueblo Indians, New Mexico	10,915
M21 707	Pueblo of Laguna Indians	89,924
M40 750	Southern Ute Indians, Colorado	10,216
M45 751	Ute Mountain Indians, Colorado	36,293
M50 701	Jicarilla Apache Tribe	101,845
M60 702	Mescalero Apache Tribe	32,451
N00 780	Navajo Tribe	121,440
P03 101	Confederated Tribes of Colville	12,286
P04 180	Fort Hall Indians, Idaho	11,580
P09 145	Confederated Tribes of Warm Springs	51,954
P11 124	Yakima Tribe of Indians	32,405
P13 203	Flathead Indians, Montana	17,494
S50 014	Passamaquoddy Tribe	83,887
S50 018	Penobscot Tribe	13,915
S51 008	Tonawanda Band of Senecas	18,971



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

SEP 15 1989

Memorandum

To: Assistant Inspector General for Audits

From: Acting Assistant Secretary - Indian Affairs *Walter R. Mills*

Subject: Draft Audit Report, "Selected Aspects of Indian Trust Fund Activities" (Assignment No. C-IA-BIA-17-88)

This memorandum provides the Bureau's response to the above referenced audit. In response to additional concerns in the management of trust funds which have been raised by the Bureau, we understand that you will reopen the audit to review whether investment losses of tribal funds have been shifted to the pooled investments of Individual Indian Monies account holders.

As a general comment, we suggest that the draft report be reviewed by the Solicitor prior to being issued in final form to determine if statements such as the "Bureau's fiduciary responsibility" and "Bureau's trust responsibility" should be more appropriately identified as the "Secretary's" responsibilities. Likewise, statements concerning the "Bureau's liability" should also be brought to the Solicitor's attention.

We recognize the validity of most of the recommendations contained in this report and those which have been issued previously on the same subject. The Bureau has taken action to improve the accounting and investment processes by entering into a contract with Security Pacific National Bank. Unless the Bureau is precluded from beginning operations under the contract by appropriations bill language, it is our intention to begin the transfer of assets to the contractor shortly after the beginning of the 1990 fiscal year. If Congressional action prevents our moving to contracted operations, it will take several years to develop the in-house automated systems capability to address the deficiencies which would be remedied by the contract.

Our response to the specific recommendations follows:

Recommendation 1: Adjust the general ledger to agree with the confirmed subsidiary records for investments.

Response: The Bureau concurs. The adjustments will be made prior to the end of October 1989. (Responsible individual: Chief, Division of Trust Fund Accounting)

Recommendation 2: Resolve the long-standing differences in tribal account balances, such as the Sioux Nation account, that exist between the official accounting records and the subsidiary records and adjust appropriate records accordingly.

Response: The Bureau does not concur at this time. The Sioux Nation account has been reconciled. Attached are copies of the work papers for the Sioux Nation reconciliation. This account was fairly easy to reconcile as only investment activity has occurred; there have been no distributions to the tribe.

The Bureau obtained contractual services from FY 1986 to FY 1989 to reconcile tribal accounts with negative balances. Over this three-year period, approximately 300 accounts were reconciled back to the point in time where the negative balance first occurred.

The Bureau believes that it is possible to resolve the differences in the 500 tribal accounts for judgment awards, which contain about two-thirds of the funds in tribal accounts. Reconciliation of other tribal accounts, which may date back to the turn of the century, is a virtual impossibility.

As noted in the Arthur Andersen & Company reports, the Bureau has insufficient staff resources to ensure proper segregation of duties and monthly reconciliation of reports, much less to undertake a project which would require a review of records going back twenty years or more. It is estimated that simply resolving the differences in the tribal judgment accounts would be a five-year undertaking once staff have been identified and trained.

Based on the Bureau's pending budget request for FY 1991, additional staff and financial resources have been identified to improve the management of trust funds. If that budget request is approved, the Bureau would concur with a modified recommendation limited to resolving the differences in the tribal judgment funds with an estimated starting date of January 1991 and a target completion date of December 1995.

Recommendation 3: Establish a managerial position which will have complete responsibility and authority over all components of trust fund operations.

Response: The Bureau concurs. Action will be initiated to establish a Deputy to the Assistant Secretary - Indian Affairs for Trust Fund Management. The office is proposed to be located in Albuquerque, New Mexico. If approved by the Department, the office will be headed by a member of the Senior Executive Service and have divisions of trust fund investment, trust fund accounting, collections, and supervised accounts. Attached, for your review, is a portion of the Bureau's pending FY 1991 budget request which would implement this recommendation, if funded.

Recommendation 4: Create or assign an organizational unit to have the specific responsibility of performing cyclical reviews of Individual Indian Money operations at all appropriate area/agency offices and place this unit under the direct supervision of the managerial position established by recommendation 3.

Response: The Bureau concurs with the establishment of an organizational unit for audit and evaluation and has requested \$1,000,000 for FY 1991 to establish such an office under the direction of the Deputy to the Assistant Secretary - Indian Affairs for Operations. The divisions proposed under our response to recommendation 3, would be responsible for providing operational policies, ensuring monthly reconciliations of accounts, conducting cash management reviews, and overseeing the supervised accounts. The organization under the Deputy for

Operations would act as an independent auditor/evaluator. This office would be responsible not just for trust fund audits, but would also review financial management of appropriated funds and would conduct internal control review and follow-up reviews to ensure compliance with corrective action plans.

Recommendation 5: Provide an action plan that addresses the recommendations in the CPA reports on internal controls and compliance or specific reasons for nonconcurrency.

Response: The Bureau concurs. The auditors identified ten significant weaknesses and seventeen compliance exceptions through their site visits to the central office units in Albuquerque, N.M. and to twenty-three agencies under the jurisdiction of eleven area offices. The auditors provided the Bureau with information, by location, of noted deficiencies. Because of the decentralized organizational structure of the Bureau of Indian Affairs, each Area Director has been asked to prepare a corrective action plan for his area. These plans, along with those developed by appropriate central office personnel, will be submitted by November 15, 1989. Attached are copies of Exhibits 2 and 3 from the Highlights of Internal Control Report prepared by Arthur Andersen & Company which the Bureau will address in the corrective action plans.

Recommendation 6: Request a Solicitor's opinion on the following issues:

- a. For each of the instances discussed in this finding, determine the Bureau's liability regarding lost trust funds plus applicable interest.
- b. For those instances where it is determined that the Bureau has the responsibility to return lost principal plus interest, or just lost principal, ascertain the most appropriate method for the Bureau to reimburse the tribal individual account holders.

Response: The Bureau concurs and will refer the instances cited in the report to the Solicitor for a determination of potential liability. If it is determined that the Bureau should reimburse the trust funds for any or all of the amounts cited, it would be necessary to obtain authorizing legislation. (Responsible individual: Assistant Director, Financial Management)

Recommendation 7: Establish written policies that definitize when the Bureau is liable for losses and how Indian accounts will be reimbursed in those cases for which the Bureau is liable.

Response: The Bureau disagrees with this recommendation as the Inspector General has assumed that there is a liability. As the Bureau has no statutory authority to act as a guarantor nor any authorization or appropriation to pay for losses of either principal or interest, written policies, lacking legal authority, are inappropriate.

Recommendation 8: Prepare and implement a Bureau procedure that recognizes investment losses of trust funds and ensures the reimbursement of the losses plus interest, where appropriate, within a reasonable time after sustaining the loss.

Response: The Bureau agrees that a procedure should be implemented to recognize investment losses. We disagree with ensuring the reimbursement of such losses for the reasons cited under the previous response. (Responsible individual for establishing procedures to recognize investment losses: Chief, Division of Trust Funds Management)

Recommendation 9: We recommend that the Assistant Secretary for Indian Affairs direct the Division of Trust Funds Management to thoroughly review all guaranteed loan investments that were in effect as of January 1983 and determine which of those loans have been properly paid off. For those loans which still have valid, outstanding balances, the Bureau should maintain the accounts on a current basis. Any loans that cannot be reconciled should be turned over to the Office of Inspector General for investigation.

Response: The Division of Trust Funds Management will be so directed.

Recommendation 10: Request a Solicitor's opinion to determine the liability of Treasury or the Bureau for the undistributed interest for July through December 1986.

Response: The recommendation should be reworded, substituting the word "unearned" for "undistributed" and by adding the year "1985" after July. The Bureau cannot distribute interest which has not been earned. The Bureau disagrees with this recommendation for the reasons cited under the response to the next recommendation.

Recommendation 11: Distribute to the Indian tribal accounts the overnight interest for July through December 1986.

Response: The recommendation should be reworded to include the year "1985" after July. The overnight interest that was earned has been distributed. The FY 1990 Interior Appropriations bill, as passed by the Senate, includes bill language which would allow the Bureau to retain excess interest drawn from the Treasury (\$3,017,428.54), to repay the trust funds for interest not earned due to underinvestments (\$2,713,974.18). The net difference would compensate the trust funds for the unearned interest on the interest that was unavailable for investment. Without Congressional action providing the authority to retain the earnings from overreporting of investments, a distribution of those earnings would constitute an authorized drawdown from the Treasury which would be a violation of the Anti-Deficiency Act.

Attachments
(Not Included)

STATUS OF AUDIT REPORT RECOMMENDATIONS

<u>Finding/Recommendation Reference</u>	<u>Status</u>	<u>Action Required</u>
A.1	Resolved	Since target date is October 31, 1989, notify us when action is completed.
A.2	Unresolved	Provide comments on revised recommendation and target dates.
A.3, A.4	Resolved	None.
A.5	Concurs; additional information needed.	Provide copies of area directors' action plans and target dates.
B.1	Concurs; additional information needed.	Provide copy of request for Solicitor's opinion.
B.2, B.3	Unresolved	Reconsider Recommendations B.2 and B.3 regarding establishing policies and procedures for reimbursing tribes and individual Indians for losses caused by Bureau mismanagement.
C.1	Concurs; additional information needed.	Provide copy of directive to Chief, Trust Fund Management, and target date for implementation.
D.1, D.2	Resolved	Provide information regarding final Congressional action on Bureau proposal for reimbursing trust funds for overnight interest.